

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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SUSAN DOHERTY and DWIGHT  
SIMONSON, individually and on  
behalf of all others  
similarly situated,

Civil No. 10-359 (NLH/KMW)

**FINAL APPROVAL ORDER AND  
JUDGMENT**

Plaintiff,

v.

THE HERTZ CORPORATION, et  
al.,

Defendants.

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**HILLMAN, District Judge**

For the reasons set forth more fully in the Court's  
Memorandum Opinion and Order of even date,

IT IS on this 25th day of June, 2014, hereby  
**ORDERED** as follows:

**1. Definitions**

Unless otherwise provided herein, the Court adopts and  
incorporates the definitions of all capitalized terms in the  
Settlement Agreement and those defined terms shall have the same  
meaning in this Order.

**2. Approval of the Class**

This Court finally certifies the following Class pursuant  
to FED. R. CIV. P. 23(a) and (b) (3):

**All natural persons in the United States who: (a) rented a car from Hertz with the first day of the rental between July 1, 2006 and March 31, 2010; (b) used PlatePass during that rental; and (c) paid PlatePass-Related charges incurred during that rental, but not including those who timely filed a Request for Exclusion, governmental entities, Defendants, their parents, subsidiaries, affiliates, directors, officers, attorneys, and members of their immediate families and the Court and persons within the third degree of relationship to the Court.**

The Court finds that the Class meets all the applicable requirements of Rule 23 of the Federal Rules of Civil Procedure, affirms certification of the Class, and approves the Settlement Agreement as being fair, just, reasonable, and adequate.

Specifically, the Court finds and concludes:

- a. The Class is so numerous that joinder of all members is impracticable, satisfying the requirement of Rule 23(a)(1);
- b. There are questions of law or fact common to the Class, satisfying the requirements of Rule 23(a)(2) and Rule 23(c)(1)(B);
- c. The claims of Plaintiffs are typical of the claims of the Class, satisfying the requirements of Rule 23(a)(3);
- d. Plaintiffs will fairly and adequately protect the interests of the Class, and Plaintiffs are represented by counsel who are experienced and competent in the prosecution of complex class action litigation, satisfying the requirements of Rule 23(a)(4);
- e. Questions of law or fact common to the members of the Class predominate over questions affecting only individual members, and a class action is superior to other methods available for the fair and efficient adjudication of the controversy, satisfying the requirements of Rule 23(b)(3); and
- f. The action is manageable as a class action.

**3. Approval of Settlement Agreement**

The Court finds, upon review of the Settlement Agreement and consideration of the factors enunciated in Girsh v. Jepson, 521 F.2d 153, 157 (3d Cir. 1975), In re Baby Products Antitrust Litigation, 708 F.3d 163 (3d Cir. 2013), and In re Prudential Insurance Co. of America Sales Practices Litigation, 148 F.3d 283 (3d Cir. 1998), that the Settlement Agreement and the proposed benefits to the Class, including the direct refund benefits from the Common Fund, are fair, reasonable and adequate. Accordingly, the terms of the Settlement Agreement, including all exhibits thereto, are approved in their entirety by the Court and incorporated into this Order as if expressly set forth and shall have the same force and effect of an Order of the Court. The Parties and their counsel are ordered to implement and to consummate the Settlement Agreement according to its terms and provisions. The releases set forth in the Settlement Agreement are incorporated by reference. The Court reaffirms that the Claim Form is approved.

**4. Approval of Class Benefits**

The Common Fund and direct benefits available to Class Members from that fund, as described in the Settlement Agreement, are approved as fair, reasonable, and adequate to the

Class, and the Settlement Administrator is directed to continue to administer the Settlement Agreement according to the terms of the Settlement Agreement. Further, to the extent permitted by law, the Common Fund established pursuant to the Settlement Agreement may be treated as a qualified fund pursuant to applicable Treasury Regulations.

**5. Adequacy of Notices**

The Court finds that due and adequate notice was provided pursuant to Rule 23 of the Federal Rules of Civil Procedure to all members of the Class, notifying the Class of, *inter alia*, the pendency of this action and the proposed Settlement Agreement. The notice program set forth in the Settlement Agreement and provided to the Class was the best notice practicable under the circumstances and included individual notice by first class mail to all members of the Class who could be identified through reasonable effort, as well as publication of the Publication Notice twice in a national newspaper (USA Today), a press release released on a national newswire service, as well as postings of the notices on Class Counsel's website and copies of pertinent notices and forms and other information on the Settlement Administrator's website established for this case, [www.HertzPlatePassSettlement.com](http://www.HertzPlatePassSettlement.com). The notice program as

carried out pursuant to the terms of the Settlement Agreement fully complied in all respects with the requirements of Rule 23 and Constitutional requirements of due process.

**6. CAFA Public Official Notification**

Defendants have provided notification to all appropriate federal and state officials regarding the Settlement Agreement as required by the Class Action Fairness Act, 28 U.S.C. § 1715.

**7. Opt-Out Settlement Class Members**

Attached hereto and incorporated herein as Exhibit A is a schedule of all Class Members who have timely and validly requested to be excluded from the Class and accordingly are not included in or bound by this Final Approval Order and Judgment. The Class Members who have filed a Request for Exclusion are not entitled to receive any direct benefits, including the cash refund from the Common Fund, as described in the Settlement Agreement.

**8. Objections**

The Court finds that the response of Class Members supports final approval of the Settlement Agreement and that the contentions of the single remaining objector timely filing an objection is without merit and is overruled.

**9. Approval of Class Representatives**

Based upon the Court's familiarity with the claims and parties, the Court finds that Plaintiffs adequately have represented and represent the interests of the Class as Class Counsel, and the Court hereby confirms their appointment as Class Representatives.

**10. Approval of Class Counsel**

The Court finds that Class Counsel namely, Cohen, Placitella & Roth, P.C., Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L., and Emanuel & Dunn, PLLC have fairly and adequately represented and represent the interests of Plaintiffs and the Class and hereby confirms them as Class Counsel pursuant to FED. R. Civ. P. 23(g).

**11. Binding**

The terms of Final Approval Order and Judgment and the Settlement Agreement are binding on the Plaintiffs/Class Representatives and all members of the Class who have not timely and validly opted-out and shall have *res judicata*, collateral estoppel, and all other preclusive effect on any and all claims for relief, causes of action, suits, petitions, demands in law or equity, or any allegations of liability, damage, debts, contracts, agreements, obligations, promises, attorneys' fees,

costs, interests, or expenses which are based on or in any way related to any and all claims for relief, causes of actions, suits, petitions, demands in law or equity, or any allegations of liability, damages, debts, contracts, agreements, obligations, promises, attorneys' fees, costs, interests, or expenses which were or could have been asserted in the Action or any other claims under state or federal law, which arise from, are based on, or in any way are related to the PlatePass service and product that is the subject of this Action.

**12. Dismissal With Prejudice**

The Consolidated Action, including any and all claims against Defendants, are dismissed on the merits and with prejudice.

**13. Release of Dismissed Claims**

The Release set forth in Article 6 of the Settlement Agreement is incorporated by reference and provides, *inter alia*, that for and in consideration of the benefits and mutual promises contained in the Settlement Agreement, the Class-Related Releasing Parties release the Class-Related Released Parties of all Class Released Claims which means all claims (including without limitation, claims for attorneys' fees and costs), causes of action, actions, or suits, by or on behalf of

any Class Member, whether arising by statute, law or in equity, under the law of any jurisdiction, which were or could have been asserted in the Action, whether liquidated or unliquidated, known or unknown, in law, equity, arbitration, or otherwise, whether or not concealed or hidden, that in any way relate to, in whole or in part, or arise out of, any of the allegations, defenses, claims, motions and/or theories raised in or that could have been raised in the Action relating to PlatePass-Related Charges, but, without limiting the generality of the foregoing, Class Released Claims shall not be construed to release, bar, or extinguish any claims, rights, or actions that any Class-Related Releasing Party may have against PlatePass LLC, ATS, and/or Avis Budget Group that do not involve or relate to Hertz rental transactions or PlatePass-Related Charges incurred during Hertz rental transactions, including the Soper/Avis-Budget Claims (the latter of which is defined in Article 1.29 of the Settlement Agreement).

**14. Bar Order**

Upon the Effective Date, Plaintiffs, Class Members and all other Class-Related Releasing Parties, except for those who have timely excluded themselves from the Class (as identified on Exhibit A hereto), are forever barred and enjoined from

commencing, instituting or continuing to prosecute any action or any proceeding in any court of law or equity, arbitration tribunal, administrative forum, or other forum of any kind (whether within the United States or not) asserting any of the Class Released Claims (including unknown claims) against any of the Class-Related Released Parties. Without limiting the generality of the foregoing, Class Released Claims, however, shall not be construed to release, bar, or extinguish any claims, rights, or actions that any Class-Related Releasing Party may have against PlatePass LLC, ATS, and/or Avis Budget Group that do not involve or relate to Hertz rental transactions or PlatePass- Related Charges incurred during Hertz rental transactions, including the Soper/Avis-Budget Claims (as defined in Article 1.29 of the Settlement Agreement).

**15. Class Counsel's Award**

Upon review of the Settlement Agreement, Class Counsel's request for an award of Aggregate Fees and Costs, and consideration of the factors enunciated in Gunter v. Ridgewood Energy Corp., 223 F.3d 190, 195 n.1 (3d Cir. 2000) and In re Prudential Ins. Co. Am. Sales Prac. Litig., 148 F.3d 283, 338-39 (3d Cir. 1998), the Court finds that the percentage of fee requested is reasonable and the award of attorneys' fees in this

class action settlement is appropriate and Class Counsel's motion will be granted. Class Counsel is hereby awarded reasonable fees in the amount of \$3,026,100.00 and costs in the amount of \$100,000. These amounts shall be paid and distributed in accordance with the Settlement Agreement.

**16. Class Representatives' Service Award**

Each Class Representative is hereby awarded a service award in the amount of \$5,000.00. These service awards shall be paid and distributed in accordance with the Settlement Agreement.

**17. Retention of Ancillary Jurisdiction**

Without affecting the finality of this Final Approval Order and Judgment, the Court shall for a period of twelve (12) months from the date that this order becomes Final as provided in the Settlement Agreement retain continuing and exclusive ancillary jurisdiction over this Action, the Parties and the Class for purposes of implementing, effectuating the administration and enforcing the Settlement Agreement. Any disputes or controversies arising with respect to the administration, enforcement or implementation of the Settlement Agreement shall be presented during this time by motion to this Court. Prior to the expiration of this retained ancillary jurisdiction, the Parties may for good cause apply to Court for an extension of

the Court's retained ancillary jurisdiction.

18. In the event the Settlement Agreement does not become effective according to the terms of the Settlement Agreement, this Final Approval Order and Judgment shall be rendered void as provided by the Settlement Agreement, shall be vacated and all orders entered and released in connection herewith shall be void to the extent provided by and in accordance with the Settlement Agreement.

**19. No Admission**

Neither this Order nor the Settlement Agreement nor any other settlement-related document nor anything contained herein or therein or contemplated hereby or thereby nor any proceedings undertaken in accordance with the terms set forth the Settlement Agreement or herein or in any other settlement-related document, shall constitute, be construed as or be deemed to be evidence of, or an admission or concession by Defendants as to, the validity of any claim that has been or could have been asserted against any or all of them or as to any liability of any or all of them as to any matter set forth in this Order, or as to the propriety of class certification for any purposes other than for purposes of the Settlement Agreement.

20. There being no just reason for delay, the Clerk of

Court is ordered to immediately enter this Final Approval Order and Judgment forthwith, and is directed to mark this matter as **CLOSED**.

At Camden, New Jersey

s/ Noel L. Hillman  
NOEL L. HILLMAN, U.S.D.J.

# Exhibit A

HERTZ PLATEPASS SETTLEMENT  
OPT-OUT LIST

OPT OUT		NUMBER	NAME	ADDRESS	CITY	STATE/COUNTRY	ZIP
01	RICHARD VON MERING			23 VINEGAR HILL ROAD	PINE BUSH	NY	12566
02	BARBARA G. GUTHIER			15510 W. AMELIA DRIVE	GOODYEAR	AZ	85395
03	WILLIAM WARE			3012 S. ONG STREET	AMARILLO	TX	79109
04	HELEN E. WITT			10560 S. LONGWOOD DRIVE	CHICAGO	IL	60643
05	TOM WILLIAMS			13821 LONG STREET	OVERLAND PARK	KS	66221
06	STUART H. PASTER			9944 OLD WAGON TRAIL	EDEN PRAIRIE	MN	55347
07	RONALD D. TREMAYNE			3035 SABO LANE	WEST LINN	OR	97068
08	KEITH THORELL			3525 GIDDINGS RAND ROAD	ALTADENA	CA	91001
09	ERIC PACYNIAK			5513 E. CELEBRITY CIRCLE	HANOVER PARK	IL	60133
10	VLASIA HANTAKAS			7205 FAIRFIELD DRIVE	SANTA ROSE	CA	85409
11	MANOHAR SAMA			8875 PAPILLON DRIVE	ELLIOTT CITY	MD	21043
12	JOHN CARLIN			404 SWEET APPLE CIRCLE	ALPHARETTA	GA	30004
13	MARK TIPPERREITER			9070 SW 82ND AVENUE	PORTLAND	OR	97223
14	ANNE C. VINCENT			799 WILMOT ROAD	SCARSDALE	NY	10583
15	DANA KADEAN-NEHAMA			13688 LEXINGTON COURT	SARATOGA	CA	95070
16	ANITA JANSEN			2901 GABRIEL VIEW DRIVE	GEORGETOWN	TX	78628
17	RALPH WHELAN			23 ELM PARK ROAD	PINNER	UNITED KINGDOM	HA53L3
18	RAY MELCHER			7020 PINEHURST DRIVE	PRESTO	PA	15142
19	SAM GAGLIO			12101 N MAC ARTHUR BLVD SUITE 146	OKLAHOMA CITY	OK	73162
20	SYLVIA COLLINS			ROBIN POST HOUSE- ROBIN POST LANE	HAILSHAM	UNITED KINGDOM	BN27 3RA
21	ALEJANDRO DESMAISON			MONTE CARLO 230 DEPT 401	LIMA	PERU	
22	VALENTIN KUZENETSOR			384 CODDINGTON ROAD	ITHECA	NY	14850
23	YOSHINORI SAKAUE			1-21-6 MACHINDA-SHI	TOKYO	JAPAN	195-0055
24	ERIN KELLY			17/6 PRIMROSE STREET, BOWEN HILLS	QUEENSLAND	AUSTRALIA	4006
25	SYLVAIN JACQUES			2590 AV MALO	BROSSARD	CANADA	J4Y182
26	ALAN CORDOVA			2828 GREENBRIAR STREET APT 3304	HOUSTON	TX	77098
27	SHGEHISA OKAYAMA			1441-4 HOMMACHIDA, MACHIDA	TOKYO	JAPAN	194-0032
28	R. JOSEPH BARTON			1276 N. WAYNE STREET #811	ARLINGTON	VA	22201
29	CEZARY GADOMSKI			UL. BRUZDOWA 105 D	WARSZAWA	POLAND	02-991
30	KELLY A. THOMAS			793 LAFAYETTE AVENUE #4	HAWTHORNE	NJ	07506
31	ALBERT GOLDSTEIN			61 AVE DE MATEGNIN, 1217 MEYRIN, GE		SWITZERLAND	
32	NATHAN HALL			38 WOODLAND ROAD	CAPE ELIZABETH	ME	04107
33	ARTHUR E. FOREMAN			181-13888 70 AVE.	SURREY	CANADA	V3W 0R8
34	MARCELA ACCINI			URB LAS CASCADAS VIA SAMBORON	GUAYAQUIL	ECUADOR	
35	ANDREW FORMENTINI			5406 SKILLMAN AVENUE APT# 4D	QUEENS	NY	11377
36	JULIENNE GALLARDO			MONTE CAUCASO 915-304, LOMAS DE CHAPULTEPEC	MEXICO	DF	11000
37	BETTE K. STEVENS			17538 MANDARIN CIRCLE	WINTER GARDEN	FL	34787
38	JULIENNE GALLARDO			MONTE CAUCASO 915-304, LOMAS DE CHAPULTEPEC	MEXICO	DF	11000
39	GIUSEPPE AIMO			ALBISOLA SUPERIORE, VIA ALTO		ITALY	88888
40	ENRICO DE FELICI			VIA FONTANA DEI DRAGHI 1, 00040 MONTE PORZIO CATONE ROMA		ITALY	
41	MK MARGAVICH			PO BOX 853	OAKS	PA	19456
42	RICHARD HALLIFAX			STENMURSGATAN 9D, 52338 ULRICEHAMN		SWEDEN	
43	ELIZABETH J. GRIFFITH			1349 N ASTOR STREET	CHICAGO	IL	60610
44	FREDERICK PHILIPS			2 LEYDEN PARK, CLOVENFORDS, GLASHIELS	SELKIRKSHIRE	SCOTLAND	
45	CARLO QUINTO DEGANO			148 BUDELLUNGO ST	PARMA	ITALY	60610
46	JOSE EDUARDO OSORIO			RUA VISCONDE DE ITAUNA, 261, JARDIM BOTANICO	RIO DE JANEIRO	BRASIL	22460-140
47	RALPH HINDLE			63 GRAY WAY	CALGARY, ALBERTA	CANADA	T3R 1K7
48	FERNANDO RODRIGUEZ			CLL 151 5537	BOGOTA	COLUMBIA	
49	DANIELLE DURANTE			136 PROCTOR WAY	REVERE	MA	02151
50	MANFRED FRISCH			VON-REHLINGENSTRASSE 271	NEUAESS	GERMANY	86356
51	DIETER PETERS			LINDENWEG 19 D-18230 BASTORF	MECKLENBURG	GERMANY	